

REMARKS

This Reply is intended to be completely responsive to the non-final Office Action dated April 15, 2008.

Summary

In the Office Action dated April 15, 2008, the Examiner appears to have mistakenly examined the version of the Claims prior to the Preliminary Amendment filed by the Applicants on September 14, 2005. In this Reply, the Applicants address the cited prior art references with respect to the current version of the Claims (i.e., the Claims as amended by the Preliminary Amendment filed September 14, 2005). While the Applicants have not amended any of the Claims with this Reply, the foregoing Listing of Claims showing the current version of the Claims is included for the Examiner's convenience.

Status

Claims 1-19 are pending in this Application.

For the reasons discussed below, the Applicants respectfully submit that the rejections raised by the Examiner to the prior version of the claims are inapplicable to the current version of the Claims and that the current version of the Claims is patentable. In view of the reasons that follow, reconsideration and allowance of pending Claims 1-19 is respectfully requested.

Claim Rejections – 35 U.S.C. § 112 ¶ 2

1. Rejection of Claims 5-7, 8, 13-15, and 16 under 35 U.S.C. § 112 ¶ 2

On pages 2-3 of the Detailed Action, the Examiner rejected a prior version of Claims 5-7, 8, 13-15, and 16 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

The Applicants respectfully assert that the amendments made in the Preliminary Amendment filed September 14, 2005 either changed claim elements or changed the dependency of the Claims 5-7, 8, 13-15, and 16 in a manner that renders the rejections of these Claims under 35 U.S.C. § 112 ¶ 2 inapplicable to the current version of the Claims. As such, the Applicants respectfully assert that the current versions of Claims 5-7, 8, 13-15, and 16 are not indefinite, and the Applicants respectfully request withdrawal of the rejection and reconsideration and allowance of Claims 5-7, 8, 13-15, and 16.

2. Rejection of Claim 18 under 35 U.S.C. § 112 ¶ 2

On page 3 of the Detailed Action, the Examiner rejected a prior version of Claim 18 under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. The Examiner stated “[t]he submitted drawings fail to depict a structure that resembles a truck and a trailer. The apparatus/vehicle submitted, in the opinion of the Examiner, appears to be only a truck.”

The Application, as filed, discloses that “the vehicle on which the material handling apparatus 20 is mounted can be a trailer or other suitable vehicle.” Paragraph [0015] (emphasis added). A claim meets the requirements of 35 U.S.C. § 112 ¶ 2 if “the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent.” See MPEP § 2173.02. The Applicants respectfully assert that the claim term “trailer” is definite under the standard set forth above. As such, the Applicants respectfully assert that the current version of Claim 18 is definite, and the Applicants respectfully request reconsideration and allowance of Claim 18.

Claim Rejections – 35 U.S.C. § 103(a)

1. Rejection of Claims 1-8, 10-16, and 18-19 under 35 U.S.C. § 103(a) Based Upon Backer et al. in View of Raisio

On pages 3-6 of the Detailed Action, the Examiner rejected the previous version of Claims 1-8, 10-16, and 18-19 as being unpatentable over U.S. Patent No. 5,249,643, titled “Vehicular Self-Propelled Aerial Work Platform and Telescoping Parallelogram Boom Therefor” and issued to Backer et al. (“Backer et al.”) in view of U.S. Patent No. 5,102,284, titled “Method and Equipment for the Transfer of a Cargo Space onto a Vehicle and Off the Vehicle” and issued to Raisio (“Raisio”), under 35 U.S.C. § 103(a). For the reasons discussed below, the Applicants respectfully assert that the current versions of independent Claims 1 and 10 recite a combination of subject matter that is allowable under 35 U.S.C. § 103(a).

Backer et al. is directed to a “vehicular propelled aerial work platform” and discloses a “lower telescopic boom assembly 5,” an “upper telescopic boom assembly 7,” and a “work platform 8.” See col. 2, lines 14-25. “The work platform 8 is pivotally connected to the distal end of the fly section 27” of the upper telescopic boom assembly 7. See col. 3, lines 4-6 and Fig. 1. Raisio is directed to a “loading device” and discloses a “rear frame 2,” a “middle frame 4,” an “L-piece 6,” and a “grasping hook 11.” See col. 3, lines 9-25 and Fig. 1.

The current version of independent Claim 1 recites a “land vehicle” comprising, in combination with other elements, a “jib having a telescopic actuator.” The current version of independent Claim 10 recites “a land vehicle” comprising, in combination with other elements, a “telescopic jib coupled to the boom.” Independent Claims 1 and 10 recite a combination of subject matter that the Applicants believe is allowable under 35 U.S.C. § 103(a).

a) Backer et al. and Raisio fail to disclose, teach, or suggest at least one element of independent Claims 1 and 10

Backer et al. does not disclose a “jib having a telescopic actuator,” as recited in independent Claim 1, or a “telescopic jib coupled to the boom,” as recited in independent Claim 10. In contrast, Backer et al. appears to disclose a device having only two telescopic components, the “lower telescopic boom assembly 5” and the “upper telescopic boom assembly 7.” The “upper telescopic boom assembly 7” is “pivotally connected” to the “work platform 8,” by an unlabeled portion shown in Figure 1. See col. 3, lines 4-6 and Fig. 1. This unlabeled portion does not appear to be a “jib having a telescopic actuator,” as recited in independent Claim 1, or a “telescopic jib coupled to the boom,” as recited in independent Claim 10. Further, Raisio does not remedy the deficiencies of Backer et al. The “rear frame 2,” the “middle frame 4,” and the “L-piece 6” of Raisio appear to have fixed lengths and do not appear to be either a “jib having a telescopic actuator,” as recited in independent Claim 1, or a “telescopic jib coupled to the boom,” as recited in independent Claim 10.

For the reasons stated above, the Applicants respectfully submit that the subject matter recited in the current versions of independent Claims 1 and 10, considered as a whole, would not have been obvious based upon Backer et al. in view of Raisio and are patentable under 35 U.S.C. § 103(a). For the same reasons, Claims 2-8, 11-16, and 18-19, which depend from Claims 1 and 10, are also patentable under 35 U.S.C. § 103(a). The Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a) and reconsideration and allowance of Claims 1-8, 10-16, and 18-19.

2. Rejection of Claims 9 and 17 under 35 U.S.C. § 103(a) Based Upon Backer et al. in View of Raisio in Further View of Nist et al.

On page 6 of the Detailed Action, the Examiner rejected the previous version of Claims 9 and 17 as being unpatentable over Backer et al. in view of Raisio in further view of U.S. Patent No. 4,941,546, titled “Aerial Ladder Rotation Limiter” and issued to Nist et al. (“Nist et al.”).

Claim 9 depends from independent Claim 1, and Claim 17 depends from independent Claim 10. As discussed above Backer et al. and Raisio fail to disclose, teach, or suggest at least one element of independent Claims 1 and 10. Nist et al. does not remedy the deficiencies of Backer et al. and Raisio. Nist et al. discloses a “fire truck 10 ... equipped with stabilizing outriggers [20-23].” See col. 2, lines 40-42. As such, Nist et al. does not disclose a “jib having a telescopic actuator,” as recited in independent Claim 1, or a “telescopic jib coupled to the boom,” as recited in independent Claim 10.

Accordingly, the Applicants respectfully assert that Claim 9, which depends from Claim 1, and Claim 17, which depends from Claim 10, are patentable over Backer et al. in view of Raisio in further view of Nist et al.

Conclusion

Claims 1-19 are pending in the present application. For the reasons stated above, the Applicants believe that the present Application is in condition for allowance. Favorable reconsideration of the application is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date July 10, 2008

By /James D. Borchardt/

FOLEY & LARDNER LLP
Customer Number: 26371
Telephone: (414) 319-7077
Facsimile: (414) 297-4900

James D. Borchardt
Attorney for the Applicants
Registration No. 62,025